

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: June 15, 2005

Division: Growth Management

Bulk Item: Yes No X

Department: Planning

Staff Contact Person: K. Marlene Conaway

AGENDA ITEM WORDING:

A public hearing to consider an Interim Development Ordinance (IDO) deferring the acceptance of applications for redevelopment and conversion of ten units or more of multi-family rental housing and/or mobile home parks or approval of a change of Land Use Designation from URM and URM-L, within 120 days of the effective date of the Ordinance or when the comprehensive plan and land development regulations become effective, whichever comes first. **(First of two public hearings)**

ITEM BACKGROUND:

Economic pressure is increasing to convert existing affordable multi-family rental housing and mobile home parks to different housing types such as market rate town-homes and condominiums that are no longer affordable for the County workforce. A number of owners of multi-family rental and mobile home parks are exploring such conversions, which will further decrease the existing supply of affordable and employee workforce housing. Conversion of existing multifamily rental housing and mobile home parks into residential dwellings (condominiums), often in gated communities for use as "vacation rentals" will further reduce the availability of housing units that are currently affordable in the County. The County finds that it is necessary to enact an Interim Development Ordinance deferring the acceptance of development applications that seek development approval for the redevelopment and conversion of existing affordable multi-family rental housing and mobile home parks or changing the land use designations from URM and URM-L.

The Planning Commission voted at the April 13, 2005 meeting, resulting in a tie vote which fails for lack of a majority, and therefore did not provide a recommendation to the BOCC. At the first public hearing on April 20, 2005, the BOCC directed staff to reduce the time the IDO would be effective to 120 days and to modify the exemption section of the IDO. At the May 11, 2005, meeting the Planning Commission voted 3-2 to recommend approval of the IDO. At the May 18, 2005 meeting the BOCC directed staff to amend the IDO to change the number of units of a project that would be included in the IDO from 5 to 10 units and that amendments to the land use district map from URM and URM-L land use designations shall not be approved. Due to the substantive nature of the revisions, the Ordinance must go back to a first public hearing.

PREVIOUS REVELANT BOCC ACTION:

The Board of County Commissioners at a regular meeting on January 19, 2005, directed staff to prepare an interim development ordinance to prevent further redevelopment and conversion of housing that is affordable for the workforce, while staff prepares amendments to the 2010 Comprehensive Plan and the Land Development Regulations.

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS: Approval

TOTAL COST: N/A

BUDGETED: Yes N/A No

COST TO COUNTY: N/A

SOURCE OF FUNDS: N/A

REVENUE PRODUCING: Yes N/A No AMOUNT PER MONTH: N/A Year

APPROVED BY: County Attorney X OMB/Purchasing Risk Management

DIVISION DIRECTOR APPROVAL:

DOCUMENTATION: Included X Not Required

DISPOSITION: AGENDA ITEM #

KMC

INTERIM DEVELOPMENT ORDINANCE

**DEFERRING ACCEPTANCE OF DEVELOPMENT
APPLICATIONS FOR THE REDEVELOPMENT
AND CONVERSION OF TEN ~~FIVE~~ UNITS OR
MORE OF MULTI-FAMILY RENTAL HOUSING
OR CHANGE OF LAND USE DESIGNATION
FROM URM AND URM-L AND/OR MOBILE
HOME PARKS**

**BOARD OF COUNTY COMMISSIONERS
MARATHON
JUNE 15, 2005**

INTERIM DEVELOPMENT ORDINANCE

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AN INTERIM DEVELOPMENT ORDINANCE DEFERRING THE ACCEPTANCE AND PROCESSING OF DEVELOPMENT APPLICATIONS AND THE ISSUANCE OF DEVELOPMENT APPROVALS FOR THE REDEVELOPMENT AND OR CONVERSION OF TEN FIVE UNITS OR MORE OF MULTI-FAMILY RENTAL HOUSING AND/OR MOBILE HOME PARKS OR REQUESTS FOR A LAND USE DISTRICT ZONING MAP AMENDMENT FROM URBAN RESIDENTIAL MOBILE HOME (URM) AND URBAN RESIDENTIAL MOBILE HOME-LIMITED (URM-L) TO ANY OTHER DISTRICT DESIGNATION UNTIL LAND DEVELOPMENT REGULATIONS AND COMPREHENSIVE PLAN AMENDMENTS ARE DRAFTED; PROVIDING FOR EXEMPTIONS; PROVIDING FOR TRANSMITTAL TO FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS (DCA); AND PROVIDING FOR EXPIRATION WITHIN 120 ~~365~~ DAYS OF THE EFFECTIVE DATE OF THE ORDINANCE OR WHEN THE AMENDMENTS BECOME EFFECTIVE, WHICHEVER COMES FIRST.

RECOMMENDATIONS

Staff: **Approval**
DRC: **Approval**
PC:

March 10, 2005
March 10, 2005
May 11, 2005

Staff Report
Resolution #D -05
Resolution #P -05

DRAFT BOCC ORDINANCE

ORDINANCE NO. _____ 2005

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AN INTERIM DEVELOPMENT ORDINANCE DEFERRING THE ACCEPTANCE AND PROCESSING OF DEVELOPMENT APPLICATIONS AND THE ISSUANCE OF DEVELOPMENT APPROVALS FOR THE REDEVELOPMENT ~~AND~~ OR CONVERSION OF ~~TEN FIVE~~ TEN UNITS OR MORE OF MULTI-FAMILY RENTAL HOUSING AND/OR MOBILE HOME PARKS OR REQUESTS FOR A LAND USE DISTRICT ZONING MAP AMENDMENT FROM URBAN RESIDENTIAL MOBILE HOME (URM) AND URBAN RESIDENTIAL MOBILE HOME-LIMITED (URM-L) TO ANY OTHER DISTRICT DESIGNATION UNTIL LAND DEVELOPMENT REGULATIONS AND COMPREHENSIVE PLAN AMENDMENTS ARE DRAFTED; PROVIDING FOR EXEMPTIONS; PROVIDING FOR TRANSMITTAL TO FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS (DCA); AND PROVIDING FOR EXPIRATION WITHIN 120 ~~365~~ DAYS OF THE EFFECTIVE DATE OF THE ORDINANCE OR WHEN THE AMENDMENTS BECOME EFFECTIVE, WHICHEVER COMES FIRST.

WHEREAS, the Board of County Commissioners discussed the need for and loss of affordable housing for the County workforce at their meeting of January 19, 2005; and

WHEREAS, the existing supply of employee and affordable housing is insufficient to meet the current demand for affordable workforce housing; and

WHEREAS, the Rate of Growth Ordinance (ROGO) limits the permits for new housing allocations in the County to maintain hurricane evacuation times; and

WHEREAS, the loss of existing affordable housing through redevelopment is impacting the available supply of such housing for the County workforce; and

WHEREAS, Objective 601.3 of the 2010 Comprehensive Plan directs the County to implement efforts to eliminate substandard housing and to *preserve, conserve and enhance the existing housing stock*; and

WHEREAS, affordable/employee housing has been identified by the Board of County Commissioners as one of three major commitments in the Partnership Agreement with the State approved by the Board on January 21, 2004; and

WHEREAS, multi-family rental housing and mobile home parks in the County serve a vital role in providing affordable workforce housing for those persons who live and work in the County; and

WHEREAS, economic pressure is increasing to convert the existing affordable multi-family rental housing and mobile home parks to different housing types that are no longer affordable for County workforce; and

WHEREAS, a number of owners of this housing are exploring the possible change of use of their property, which will further decrease the existing supply of affordable and employee workforce housing; and

WHEREAS, conversion of existing multifamily rental housing and/or mobile home

parks into residential dwellings (condominiums), often in gated communities for use as “vacation rentals” will further reduce the availability of housing units that are currently affordable in the County; and

WHEREAS, Chapter 380.0552 (7) F.S., “Principals for Guiding Development” requires the County to conduct programs and regulatory activities to *(j) make available adequate affordable housing for all sectors of the population of the Florida Keys*; and

WHEREAS, in order to make effective the preservation of existing affordable housing while the County prepares regulations to implement the Objective and Guiding Principle of Chapter 380 F.S., it is necessary to temporarily halt conversions and redevelopment of existing multi-family housing and/or mobile home parks of ten (10) ~~five (5)~~ or more units or or requests for a land use district zoning map amendment from urban residential mobile home (URM) and urban residential mobile home-limited (URM-L) to any other district designation ; and

WHEREAS, minor conversion and redevelopment of small multi-family housing and/or mobile home developments, as specifically exempted herein, will not significantly aggravate the countywide affordable housing need; and

WHEREAS, the County recognizes the need to develop comprehensive plan and land development regulations and programs to preserve the existing stock of affordable housing and increase the availability of affordable housing for those who live and work in the Florida Keys; and

WHEREAS, the County has committed necessary staff and resources to the development of permanent policies and regulations to address this need within the time this ordinance is in effect; and

WHEREAS, the utilization of ~~the moratorium device~~ interim development regulations as a temporary measure to facilitate government decision making, study and adoption of comprehensive plan and land development regulations is a legitimate governmental tool to facilitate logical and considered growth and as a means of avoiding inefficient and ill-conceived development; and

WHEREAS, the County finds that it is necessary to enact an Interim Development Ordinance deferring the acceptance of development applications that seek development approval for the redevelopment of ten ~~five~~ units or more of multi-family rental housing and/or mobile home parks so the County can prepare policies and regulations to address the affordable housing needs of those residents; and

WHEREAS, Chapter 125, F.S. authorizes the Board of County Commissioners to adopt ordinances to provide standards protecting against imminent and immediate threat to the health, safety and welfare of the citizens of Monroe County; and

WHEREAS, this Interim Development Ordinance constitutes a valid exercise of the County’s police power and is otherwise consistent with Section 163.3161, *et seq.*, F.S., which, *inter alia*, encourages the use of innovative land development regulations including interim provisions ~~like moratoria~~ to implement the adopted comprehensive plan; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

Section 1. The purpose and intent of this Interim Development Ordinance is in accordance with the Board of County Commissioners’ directive of January 19, 2005, to prepare an interim development ordinance to prevent the redevelopment and conversion of multifamily rental

housing and/or mobile home parks that would exacerbate the County's limited housing supply, while ~~permanent~~ legislation is being prepared.

Section 2. During the time this ordinance is in effect as specified herein, ~~there shall be a moratorium upon the issuance of~~ County staff will not issue building permits, acceptance of development applications or issuance of development orders and development permits or accept requests for Land Use Designation Map amendments from URM and URM-L within unincorporated Monroe County concerning the matter of redevelopment and conversion of multifamily rental housing and/or mobile home parks to any other use, except as provided herein.

Section 3. The following definitions apply in this ordinance:

- Conversion means a change in use as defined under Chapter 9.5, Monroe County Code.
- Mobile home park means any real property containing ten (10) ~~five (5)~~ or more mobile homes that is governed by Chapters 513 and 723, Florida Statutes.
- Mobile home has the same definition as set forth in Sections 320.01(a)(a), 513.01(3) and 723.003(3), Florida Statutes.
- Multi-family rental housing means ten (10) ~~five (5)~~ or more attached and/or detached dwelling units, including mobile homes not in a mobile home park, on a parcel or contiguous parcels under common ownership leased or have been available for lease of tenancies of thirty (30) days or more within three-hundred sixty five (365) days prior to the effective date of this ~~moratorium~~ ordinance.
- Redevelopment means the proposed removal, replacement or demolition of existing dwelling units or mobile homes for the purpose of constructing on the property attached or detached dwelling units that are built outside the footprints of existing structures and/or are built to have a total enclosed habitable floor area greater than the existing structures.

Section 4. Subject to the conditions listed below, the following conversion and redevelopment activities are exempt from this ordinance is: (a) the siting of replacement mobile homes pursuant to Section 723.041(4), F.S. and (b) development under an approved ~~Major~~ Conditional Use Permit. (c) The redevelopment and conversion of multi-family rental housing and/or mobile home parks shall only be exempt from this Ordinance if all the following conditions are met:

1. Development approval shall be pursuant to a ~~Major~~ Conditional Use Permit regardless of the requirements of Chapter 9.5, Monroe County Code; and
2. At least ~~forty (40)~~ thirty (30) percent of the total number of dwelling units and/or mobile homes to be redeveloped or converted shall be designated for affordable housing on site through placement of a ninety-nine (99) year restrictive covenant on each unit pursuant to Section 9.5-266(f)(1) to enforce the affordable housing provisions of Chapter 9.5, Monroe County Code and Conditions 3 through 5 below and/or off-site pursuant to Condition 6 below; and
3. The affordable housing shall be restricted to households that do not exceed the Monroe County adjusted median gross annual household income; and

4. The lease and occupancy of all affordable housing units shall be pursuant to the provisions of Chapter 9.5, Monroe County Code; and
5. The maximum sale price of any affordable housing unit shall be no greater than 4.25 times the Monroe County median gross annual household income; and
6. The off-site transfer to a specific site(s) of the ROGO exempt development rights for any of the affordable housing units as provided for in Section 9.5-120.4, Monroe County Code, must be approved by conditional use permit no later than sixty (60) ~~one hundred eighty (180)~~ days from the effective date of the issuance of the first building permit for any redevelopment and conversion authorized by the major conditional use approval pursuant to this Ordinance or, the ownership of the ROGO exempt development rights to the affordable housing shall revert to Monroe County for assignment to other projects.

Section 5. Pursuant to its lawful authority and the pending legislation doctrine as set forth in *Smith v. City of Clearwater*, 383 So.2d 681 (Fla. 2d DCA, 1980) the Board of County Commissioners hereby establishes the interim development regulations set forth in this Ordinance, which shall remain in full force and effect until the expiration of this legislation within ~~one year~~ one hundred and twenty (120) days of its effective date or whenever the plan and land development regulations become effective, whichever comes first.

Section 6: Until expiration of the Interim Development Ordinance, no building permit application or planning approval meeting the criteria for review identified in Section 2 hereof shall be granted pursuant to an application or request with a submittal date of March 1, 2005 or later.

Section 7: Any application for a building permit or development approval meeting the criteria for review identified in Section 2 hereof, with a submittal date of February 28, 2005, or earlier, shall be exempt from this Interim Development Ordinance.

Section 8: As of the effective date of this Ordinance, no application for a building permit development approval meeting the criteria for review identified in Section 2 hereof shall be accepted or processed by the Growth Management Division, except applications exempt hereunder and development awarded a vested rights determination pursuant to Section 7 10 hereof.

Section 9: This Ordinance shall not be construed to prohibit the application for or the issuance of a building permit or development approval for any development or redevelopment that does not meet the criteria for review identified in Section 2 hereof that is allowed pursuant to the Monroe County Land Development Regulations and the 2010 Comprehensive Plan.

Section 10: Any property owner adversely affected by the provisions of this Interim Development Ordinance may seek a determination that the owner's proposed development or redevelopment is vested against the provisions of this Interim Development Ordinance, by filing with the Director of Growth Management, together with an administrative fee in the amount of \$400, a vested rights application setting forth facts establishing the applicant met, prior to March 1, 2005, the date that this Ordinance is adopted by the Board of Monroe County Commissioners pursuant to the vested rights standards set forth in Section 9.5-181, Monroe County code. Such application must be filed no later than sixty (60) days after the effective date of this ordinance.

Section 11: The County Administrator is directed to have the Growth Management Division begin immediately preparing the draft text amendments and other supporting studies in cooperation with the Planning Commission in order to address the needs for maintaining the stock of affordable housing for the County workforce.

Section 12. If any section, subsection, sentence, clause, item, charge or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

Section 13. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 14. The ordinance is hereby transmitted to the Florida Department of Community Affairs pursuant to Chapter 380, Florida Statutes and the DCA is requested to review and approve it by Immediate Final Order, in accordance with F.S.120.569(2)(n), in recognition of the great public importance of preserving affordable housing and to prevent the threat of further loss of affordable housing in Monroe County, as "an immediate danger to the public health, safety, or welfare."

Section 15. This ordinance shall be filed in the Office of the Secretary of State of the State of Florida, but shall not become effective until a notice is issued by the Department of Community Affairs or Administration Commission approving ordinance pursuant to Chapter 380, F.S.

Section 16. This ordinance shall stand repealed as of 11:59 p.m. on the ~~365~~ 120th day of the effective date of the Ordinance, unless repealed sooner by the Board of County Commissioners or upon adoption of amendments to the comprehensive plan and land development regulations for preserving existing affordable housing, whichever comes first.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the ____ day of _____, 2005.

Mayor Dixie Spehar

Mayor Pro Tem Charles "Sonny" McCoy

Commissioner Murray Nelson

Commissioner George Neugent

Commissioner David Rice

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY _____
Mayor Dixie Spehar

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

Deputy Clerk



BOCC STAFF REPORT

Memo

May 27, 2005

TO: Board of County Commissioner

FROM: K. Marlene Conaway, Director of Planning and Environmental Resources

RE: Interim Development Ordinance-Multi-Family Rental Housing and Mobile Home Parks

MEETING DATE: June 15, 2005

Summary

The Board of County Commissioners (BOCC) at a regular meeting on January 19, 2005 directed Growth Management staff to prepare an ordinance deferring the redevelopment applications or issuance of development orders and development permits within unincorporated Monroe County for the redevelopment and conversion of housing that is affordable for the workforce while staff prepares amendments to the 2010 Comprehensive Plan and the Land Development Regulations (LDRs).

At the May 13, 2005 Planning Commission meeting, it is anticipated that the Commission will recommend action to the Board of County Commissioners.

The BOCC at the first of two Public Hearings on April 20, 2005 directed Growth Management staff to make a few changes to the proposed ordinance: 1) To change the expiration of the ordinance to within 120 days instead of 365 days. 2) Add to Section 3 language to the definition of a mobile home park to include "containing five (5) or more mobile homes." 3) In Section 4, change the exemption from 40 percent to 30 percent of the total number of dwelling units and/or mobile homes to be designated affordable housing and add "on site". Also, add a 99 year period to the restrictive covenant. 4) Add number 6 to Section 4 to include language addressing transfer of development rights pursuant to Section 9.5-120.4, Monroe County Code.

County Attorney Tyson Smith of White and Smith recommended changes to the IDO to clarify language in the subject and content that better defines the purpose and intent of the IDO. Those recommendations have been incorporated into the IDO.

Staff recommended changes at the May 18, 2005 to amend the IDO as follows:

Section 4(b), which discusses exemptions, should be changed to read "...under an approved ~~Major~~ Conditional Use Permit: **Section 4**, Insert "(c)" into the existing language to read "(c) *The redevelopment and conversion...*"

Section 4, Condition 1, should read "...~~Major~~ Conditional Use Permit..."

Section 4, Condition 6 was added to address concerns staff had concerning the transfer of development rights off-site and should read "The off-site transfer to a specific site(s) of the ROGO exempt development rights for any of the affordable housing units as provided for in Section 9.5-120.4, Monroe County Code, must be approved by conditional use permit no later than **sixty (60)** ~~one hundred eighty (180)~~ days from the effective date of the issuance of the first building permit for any redevelopment and conversion authorized by the major conditional use approval pursuant to this Ordinance or, the ownership of the ROGO exempt development rights to the affordable housing shall revert to Monroe County for assignment to other projects."

Section 10, which discusses vested rights of a property owner should be changed to read "...a vested rights application setting forth facts establishing the applicant met, prior to **1 March, 2005** ~~the date that this Ordinance is adopted by the Board of Monroe County Commissioners~~ pursuant to the vested rights standards set forth..."

The BOCC at the May 18, 2005, meeting approved the staff recommended changes and directed Planning staff to make the following additional changes:

- To change the number of units to be subject to the IDO if proposed for conversion or redeveloped to ten (10) from five (5).
- Include deferral of Land Use District Map Amendments from URM and URM-L in the IDO.

Because of the significance of these changes the IDO has been re-advertised and will again have two public hearings.

Staff Recommendation

The Planning Staff recommends the Monroe County Board of County Commissioners **APPROVE** the attached Interim Development Ordinance deferring development applications for the redevelopment and conversion of ten units or more of multi-family rental housing and/or mobile home parks.